

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

DEMCHAK PARTNERS LIMITED
PARTNERSHIP; JAMES P. BURGER, JR. and
BARBARA H. BURGER; WILLIAM A.
BURKE, II and CLARA BURKE; WILLIAM
A. BURKE, III; EDWARD J. BURKE;
DONALD G. FULLER and KAREN M.
FULLER; RANDY K. HEMERLY; LAMAR R.
KING; LINDA J. SCHLICK; AND JANET C.
YOUNG, on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs

v.

CHESAPEAKE APPALACHIA, L.L.C.,

Defendant.

Case No. 3:13-cv-02289-
MEM

(Judge Mannion)

JOINT NOTICE REGARDING MEDIATION

Plaintiffs Demchak Partners Limited Partnership, *et al.* initiated this action on August 30, 2013, alleging underpayment of royalties pursuant to the “Market Enhancement Clause” of their leases with Chesapeake Appalachia, L.L.C. (“Chesapeake”). *See* Dkt. 1. Before the action was initiated, Plaintiffs and Chesapeake had mediated the dispute before the Hon. Edward Cahn, who assisted the parties in reaching a settlement. Plaintiffs and Chesapeake negotiated and entered into a settlement agreement. Plaintiffs filed a motion for preliminary

approval of their class settlement agreement. *See* Dkt. 3. That motion has not yet been decided.

On September 12, 2013, Proposed Intervenors Russell E. Burkett, *et al.* filed a motion to intervene in the above-captioned action and objected to the settlement. *See* Dkt. 25. Proposed Intervenors had previously initiated a putative class arbitration against Chesapeake with the American Arbitration Association. In their arbitration, the Proposed Intervenors also raised claims alleging underpayment of royalties pursuant to the “Market Enhancement Clause.” Chesapeake has filed a motion to enjoin the putative class arbitration. Chesapeake has also initiated a separate declaratory judgment action in this Court against Proposed Intervenors, *Chesapeake v. Burkett*, No. 3:13-cv-3073, seeking to address questions related to putative class arbitration. These motions have not yet been decided by the Court or the arbitration Panel.

The parties have agreed to reconvene mediation in an effort to resolve these pending disputes.¹ The mediation will include counsel for Plaintiffs, the Proposed Intervenors, and Chesapeake. Hon. Edward Cahn and Richard Schiffrin, Esq. will jointly mediate the pending disputes. The Proposed Intervenors and Chesapeake have requested that the American Arbitration Association stay further proceedings

¹ On March 17, 2014, Scout Petroleum LLC and Scout Petroleum II LP initiated a separate, unrelated “class” arbitration against Chesapeake. Scout Petroleum expressly disclaims issues related to the “Market Enhancement Clause.” The proposed mediation does not include issues related to the claims asserted by Scout Petroleum.

in Proposed Intervenors' arbitration to allow for an opportunity to mediate. Similarly, Plaintiffs, and Proposed Intervenors and Chesapeake request that the Court stay further proceedings in this matter and in *Chesapeake v. Burkett*, No. 3:13-cv-3073, to allow for an opportunity to mediate.

DATED: April 1, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties who have appeared in this action via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Daniel T. Brier

Counsel